

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA

Samuel Christian,)	C/A No.: 8:12-1455-JFA-JDA
)	
Plaintiff,)	
)	
vs.)	ORDER
)	
Dr. Tomarchio; Dr. McRee,)	
)	
Defendants.)	
_____)	

The *pro se* plaintiff brings this civil action *in forma pauperis* pursuant to 42 U.S.C. § 1983, contending that the defendants have failed to remove a pin from his arm which has been causing him pain. The plaintiff is incarcerated at the McCormick Correctional Institution of the South Carolina Department of Corrections.

The Magistrate Judge assigned to this action¹ has prepared a Report and Recommendation and opines that the complaint should be dismissed without prejudice because the plaintiff has failed to exhaust available prison administrative remedies prior to filing this lawsuit as is required under the Prison Litigation Reform Act, 42 U.S.C. Section 1997e(a). The plaintiff acknowledges in his complaint that he has not filed a grievance, but contends that he does not have to file a grievance before seeking damages

¹ The Magistrate Judge's review is made in accordance with 28 U.S.C. § 636(b)(1)(B) and Local Civil Rule 73.02. The Magistrate Judge makes only a recommendation to this court. The recommendation has no presumptive weight, and the responsibility to make a final determination remains with the court. *Mathews v. Weber*, 423 U.S. 261 (1976). The court is charged with making a *de novo* determination of those portions of the Report and Recommendation to which specific objection is made, and the court may accept, reject, or modify, in whole or in part, the recommendation of the Magistrate Judge, or recommit the matter to the Magistrate Judge with instructions. *See* 28 U.S.C. § 636(b)(1).

in this court. The Report sets forth in detail the relevant facts and standards of law on this matter, and the court incorporates such without a recitation.

On June 12, 2012, the plaintiff was mailed a copy of the Report and Recommendation, which was filed on that same day, and advised of his right to file objections to the Report. The plaintiff timely filed objections which merely state that he is trying his best to understand this “law work” and that he is still in a lot of pain.

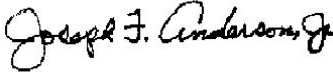
As the Magistrate Judge properly notes in her Report, the Prison Litigation Reform Act requires that all administrative remedies as are available must be exhausted by the prisoner before he brings a civil rights suit under § 1983. The Magistrate Judge also summarizes the SCDC grievance procedures for the plaintiff’s reference.

After carefully reviewing the applicable laws, the record in this case, the Report and Recommendation, and the plaintiff’s response to the Report, this court finds the Magistrate Judge’s recommendation fairly and accurately summarizes the facts and applies the correct principles of law. The Report is incorporated herein by reference.

Accordingly, this action is dismissed without prejudice and without issuance and service of process.

IT IS SO ORDERED.

July 26, 2012
Columbia, South Carolina


Joseph F. Anderson, Jr.
United States District Judge